

5/30/02 JRS  
(5)IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

|                              |   |                               |
|------------------------------|---|-------------------------------|
| CARLOS FABIAN,               | : | CIVIL ACTION NO. 3:CV-02-0722 |
|                              | : |                               |
| Plaintiff                    | : | (Chief Judge Vanaskie)        |
|                              | : |                               |
| v.                           | : | (Magistrate Judge Blewitt)    |
|                              | : |                               |
| CIC ROCKVIEW PRISON, et al., | : |                               |
|                              | : |                               |
| Defendants                   | : |                               |

FILED  
SCRANTON

MAY 30 2002

## REPORT AND RECOMMENDATION

PER

JRS  
DEPUTY CLERK

Plaintiff, at the relevant time an inmate at the "Bernard B. Kerik Complex, MDC" in New York, New York, filed the instant civil rights action on April 29, 2002. (Doc. 1). On May 8, 2002, an Administrative Order was issued, as the Plaintiff had failed to submit the filing fee or the forms required to proceed *in forma pauperis*. (Doc. 2). This Order was "returned to sender" with a note that the Plaintiff had been discharged on May 7, 2002. (Doc. 3). Also contained on that document was a notation that the Plaintiff was also known as Gomez Domingo. The Order was remailed but again returned on May 29, 2002. (Doc. 4). The Plaintiff has not left a forwarding address and has not contacted the court since the date of the filing of the complaint to further the prosecution of this action. It will therefore be recommended that the matter be dismissed for failure to prosecute.

Based on the foregoing, it is respectfully recommended that the complaint in this matter be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.

A handwritten signature in black ink, appearing to read 'Thomas M. Blewitt', written over a horizontal line.

**THOMAS M. BLEWITT**  
**United States Magistrate Judge**

Dated: May 30 2002

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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|                              | : |                            |
| Defendants                   | : |                            |

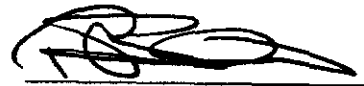
**NOTICE**

**NOTICE IS HEREBY GIVEN** that the undersigned has entered the foregoing  
**Report and Recommendation** dated **May 30 2002**.

Any party may obtain a review of the Report and Recommendation pursuant to  
Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within ten (10) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.



THOMAS M. BLEWITT  
United States Magistrate Judge

Dated: May 30 2002